

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**DAVID T. and LELAND J.  
BARCHANOWICZ,**

**Plaintiffs,**

**v.**

**FREIGHTLINER TRUCKS OF DOTHAN,  
INC., DAIMLERCHRYSLER SERVICES  
NORTH AMERICA LLC, et al.,**

**Defendants.**

**CASE NO. 1:05-CV-1232**

**MOTION TO AMEND ANSWER**

COMES the Defendant, DaimlerChrysler Financial Services Americas LLC, successor by merger to and formerly known as DaimlerChrysler Services North America LLC, successor by mergers to Mercedes-Benz Credit Corporation (hereinafter "DFS"), and moves this Court for an Order permitting the filing of the Amended Answer attached hereto as Exhibit "1." As grounds in support hereof, DFS avers as follows:

1. DFS has very recently become aware that the Plaintiff, David T. Barchanowicz, signed an arbitration agreement with the dealer, Freightliner Trucks of Dothan, Inc., when he leased the truck made the subject of this lawsuit. That arbitration agreement signed by the Plaintiffs would apply to the dispute in this case because Freightliner Trucks of Dothan assigned and transferred all of its rights and interests in and to that arbitration agreement and all other contract rights it had involved with the lease of the truck by David Barchanowicz to DFS at the time of the lease agreement made the subject of this lawsuit.

2. DFS is unable to find all of its files on the lease of the vehicle in this case to the Plaintiffs. As a result, the undersigned attorneys for DFS were unaware until very recently that there was a potential for arbitration of the dispute made the subject of this lawsuit against DFS, and thus did not plead arbitration as an affirmative defense in its Answer to the Complaint.

3. The attached proposed amendment to the Answer of DFS contains one additional affirmative defense, i.e. that the complaint is barred in this forum because of the arbitration agreement which has been assigned to DFS.

4. Because no discovery has been taken by any party in this case, and this case has just recently been filed, no prejudice will result to any party if the court grants the motion of DFS to permit it to amend its answer to add the defense of arbitration.

WHEREFORE, DFS prays that this Court will enter an order granting DFS's motion to permit amendment to complaint and allow DFS to file the Amended Answer attached hereto as Exhibit "1."

s/ C. Lee Reeves  
C. Lee Reeves  
Attorney for Defendant  
DaimlerChrysler Financial Services  
Americas LLC

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of March 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following and I hereby certify that I have mailed by U.S. mail the foregoing to the following:

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